

In re Appln. of Babinski *et al.*
Serial No. 09/629,368

Attorney Docket J-2990

Remarks

This is in response to the Office Action mailed June 20, 2001, in the above identified application, which application is related to a composition which may be applied to a surface for the purpose of combating offensive odors. As noted in the specification, the composition comprises a perfume suitable for masking unacceptable odors, in combination with specific surfactant/solubilizers which enable their use in aqueous solution.

The present communication is in response to the Office Action of June 20, 2001, in which Claims 2, 4, 9, and 15 stand rejected under 35 USC 112, as indefinite for reciting the limitation "greater than about 3" relative to the value of C log P. By the present amendment, the word "about" has been deleted in each instance, so that the limitation now reads "greater than 3." It is submitted that this limitation is clearly set forth in the specification as filed, and is not indefinite under 35 USC 112.

In addition to this rejection, all pending Claims stand rejected by the Examiner, on the basis of 35 U.S.C. 103(a) as unpatentable over Nogami *et al.* (WO Patent 98/56377). The Nogami *et al.* reference, as indicated by the examiner, teaches a malodor reducing composition including both an amber chemical material and a musk material, and consumer products including this malodor reducing composition. The Patent acknowledges that some consumers do not prefer strong perfumes and/or long lasting perfumes, and seek an odor masking product that has no odor or very faint odor after applying the product (page 1, lines 29-32. The

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amber and musk components of the patentees composition are selected in this context. Thus, Nogami *et al.* use musk to mask or cover the malodor, leaving little long lasting perfume. Applicants, however, refer to the fragrances employed in their invention as perfumes having odor characteristics acceptable for the purpose of reducing or eliminating the impression of unacceptable odors, primarily by masking such unacceptable odors with a light, airy, fresh and quickly dissipated scent. Thus, applicant provides a fragrance which would be contrary to the context in which the amber and musk combination of Nogami *et al.* was selected. Moreover, applicants indicate that suitable perfumes include such perfumes as are commonly referred to as fresh clean, spicy, floral, citrus, ozone, and marine types, which are commonly used as middle or top note fragrances. It is to be noted that the combination of amber and musk would not fall within any of these classes of perfume, amber and musk being commonly employed as base note ingredients for provision of heavier, warmer, or animalistic notes.

By the present amendment, Claims 1, 15, and 26, all of the independent Claims of the application, have been amended to recite that the fragrance comprises a perfume selected from the group consisting of fresh clean, spicy, floral, citrus, ozone, and marine type perfumes. In addition, dependent claims 4 and 7 have been amended to recite that the perfume is selected from fresh clean and floral perfumes. It is submitted that the teachings of Nogami *et al.* fail to teach a fragrance selected from this group of perfumes employed by applicants, and due to the nature of the recited mixture of amber and musk, Nogami *et al.* fail to make obvious the use of such a perfume.

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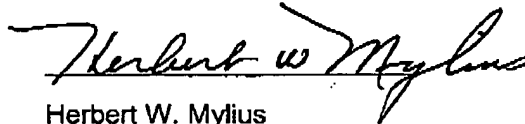
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Accordingly, it is submitted that the reference fails to teach or make obvious the invention as claimed, and that claims 1-33 of the present application are allowable thereover. Reconsideration, and an early indication of the allowability of said claims 1-33 is solicited.

Respectfully submitted,

Attorney for Applicants Babinski *et al.*

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Version of Amendment with Markings to Show Changes Made

In accordance with 37 CFR 1.121(c)(1)(iii), the following constitutes a marked-up version of the Claims amended in the present AMENDMENT, indicating the changes made in the Claims as rewritten.

1. (Amended) An aqueous composition for reducing malodor impression, said composition comprising from about 0.01 to 10.0 weight percent of a surfactant/solubilizer, from about 0.01 to about 20.0 weight percent of a solvent/drying aid, from about 0.01 to about 1.0 weight percent of a fragrance selected from the group consisting of fresh clean, spicy, floral, citrus, ozone, and marine type perfumes, from about 0.05 to about 5.0 weight percent odor absorber, sufficient buffering agent to maintain the pH of the solution between 3 and 7, and the balance water.
2. (Amended) The aqueous composition of claim 1, wherein said surfactant/solubilizer is selected from the group consisting of nonionic, anionic, cationic, and amphoteric surfactants having the ability to solubilize perfumes having a C log P value greater than [about] 3.
4. (Amended) The aqueous composition of claim 1, wherein said fragrance is [a perfume] selected from the group consisting of clean fresh and floral perfumes having a C log P value greater than [about] 3.

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9. (Amended) The aqueous composition of claim 7, wherein said fragrance is [a perfume] selected from the group consisting of clean fresh and floral perfumes having a C log P value greater than [about] 3.

15. (Amended) An aqueous composition comprising a perfume having a C log P value greater than [about] 3 selected from the group consisting of fresh clean, spicy, floral, citrus, ozone, and marine type perfumes, a surfactant/solubilizer selected from the group consisting of linear primary alcohols, ethoxylated fatty alcohols, linear primary alcohol ethoxylates, polyoxyethylene ethers, alkoxyated biodegradable hydrotropes, ether sulfates, linear ethylene oxide, quaternary ammonium halides, betaines, amine oxides, and mixtures thereof; a solvent/drying aid selected from the group consisting of glycol ethers, glycol ether acetates, and mixtures thereof; an odor absorber selected from the group consisting of acetates, chlorides, sulfates, nitrates, gluconates, maleates, lactates, and salicylates of zinc, copper, silver, zirconium, nickel, and chromium, and sufficient buffering agent to maintain the pH of said composition between about 3 and about 7.

26. (Amended) A method for reducing malodor of a surface, said method comprising applying to said surface an effective amount of an aqueous solution comprising a perfume having a C log P value greater than 3 selected from the group consisting of fresh clean, spicy, floral, citrus, ozone, and marine type perfumes, a surfactant/solubilizer for said perfume, a solvent/drying aid for said perfume, a water soluble metal salt odor absorber, and sufficient buffering agent to maintain the pH of said composition between about 3 and about 7.